

## CRIMINAL COMPLAINT

ORIGINAL

UNITED STATES DISTRICT COURT	CENTRAL DISTRICT OF CALIFORNIA
UNITED STATES OF AMERICA v. LUIS TAPIA	DOCKET NO. <i>JAN 26 2007 CLERK U.S. DISTRICT COURT</i> MAGISTRATE'S CASE NO. <i>07-0124M</i>

<b>LOADED</b> <i>JAN 26 2007</i>	Complaint for violation of Title 8, United States Code, Sections 1326(a), 1326(b)(1)	
NAME OF MAGISTRATE/JUDGE Hon Jennifer T Lum	UNITED STATES MAGISTRATE JUDGE	LOCATION Los Angeles, CA
DATE OF OFFENSE <i>2007 JAN 26</i>	PLACE OF OFFENSE Los Angeles County	ADDRESS OF ACCUSED (IF KNOWN)

## COMPLAINANT'S STATEMENT OF FACTS CONSTITUTING THE OFFENSE OR VIOLATION :

On or about December 27, 2006, defendant LUIS TAPIA, an alien, was found in Los Angeles County, within the Central District of California, after having been officially deported from the United States on or about December 1, 2004 without having obtained permission from the Attorney General or his designated successor, the Secretary for Homeland Security, to reapply for admission to the United States following deportation.

The defendant's previously alleged deportation from the United States occurred subsequent to defendant's conviction for the following felony: Terrorist Threats, in violation of California Penal Code Section 422, in Los Angeles Superior Court, in case number BA259218, on or about July 27, 2004, a crime of violence.

## BASIS OF COMPLAINANT'S CHARGE AGAINST THE ACCUSED:

(See attached affidavit which is incorporated as part of this Complaint)

## MATERIAL WITNESSES IN RELATION TO THIS CHARGE

Being duly sworn, I declare that the foregoing is true and correct to the best of my knowledge.

## SIGNATURE OF COMPLAINANT

Mario Rojas

*Mario Rojas*

## OFFICIAL TITLE

Task Force Officer - Bureau of Alcohol, Tobacco, Firearms &amp; Explosives

Sworn to before me and subscribed in my presence,

## SIGNATURE OF MAGISTRATE JUDGE(1)

*GATL*

## DATE

January 26, 2007

See Federal Rules of Criminal Procedure rules 3 and 54.

AUSA: FRED W. SLAUGHTER REC: Detention

*FWS*

A F F I D A V I T

I, Mario Rojas, being duly sworn, hereby depose and say:

1. I am a Police Officer with the Los Angeles Police Department ("LAPD"), and have been so employed since September 5, 1995. I have been deputized as a Special Deputy United States Marshal and am currently assigned to the Bureau of Alcohol, Tobacco, Firearms and Explosives ("ATF"), Los Angeles Field Division, as a Task Force Officer ("TFO"). I have participated in numerous investigations involving individuals illegally possessing firearms. I have been involved in the services of numerous search warrants where firearms have been recovered. I have also received training from agents and representatives of ATF, LAPD, and the Scientific Investigation Division of LAPD, on firearms and ammunition identification, illegal firearms possession, firearms transactions, assault weapons identification, firearms trafficking, gun shows and hidden compartments in vehicles.

2. This affidavit is made in support of a criminal complaint and arrest warrant for LUIS TAPIA ("TAPIA"), for a violation of Title 8, United States Code, Sections 1326(a) and 1326(b)(1), illegal alien found in the United States following deportation.

3. This affidavit is intended to show that there is sufficient probable cause for the requested complaint and arrest

warrant, and does not purport to set forth all of my knowledge of or investigation into this matter. The statement set forth in this affidavit are based upon my experience, training, consultation with experienced investigators, officers and agents, and other reliable sources of information relative to this investigation.

STATEMENT OF PROBABLE CAUSE

4. On or about January 24, 2007, I reviewed an LAPD crime report entitled attempt murder, report DR #0602-00858. I reviewed and LAPD arrest report DR# 0602-00858 related to the December 27, 2006 arrest of TAPIA. I also reviewed a copy of a state search warrant affidavit, and spoke to LAPD officers and detectives regarding the investigation. From a review of this information, I learned the following:

a. On December 20, 2006, at approximately 8:25 p.m., LAPD officers received a radio call of a shooting at 830 East Kensington Road in the City and County of Los Angeles, in the Central District of California. LAPD Officers Miguel Dominguez and Jess Faber were working Rampart Division and responded to the radio call. Upon their arrival, Officers Dominguez and Faber learned that a nine-year old girl named Charupa Wongwistiri was shot in the head while in the kitchen of her house. Charupa was driven to Hollywood Presbyterian Hospital by her mother, Kamonphorn Maxell, and then later transferred to Children's

Hospital where she was listed in critical condition.

b. LAPD Rampart Homicide Detectives John Motto and Lillian Velasco were notified of the shooting, responded to the crime scene and assumed the primary investigative responsibility for the incident. LAPD Rampart Homicide Detective Jeffrey Breuer responded to the crime scene to assist with the investigation. LAPD Rampart Homicide Detective Julian Pere also assisted with the investigation.

c. LAPD Officers Hernandez and Faber spoke with a witness identified as George Allen. George Allen told the officers that at approximately 8:20 p.m., he saw a small, possibly Japanese car drive up and stop in front of 831 East Kensington Road. An unknown male leaned out the passenger side of the vehicle and pointed a handgun in a southbound direction at his neighbor Cesar who was standing in his own driveway. The unknown male in the vehicle attempted to fire a handgun but the gun malfunctioned and he was unable to fire any rounds. George Allen said that when the male in the vehicle attempted to shoot Cesar, Cesar started shooting at the vehicle in a northbound direction. The vehicle fled the location northbound on East Kensington Road and Cesar ran into his residence.

d. As a result of Rampart Detective Homicide Detectives investigation, two male suspects were arrested for the investigation of murder, California Penal Code Section, 187(a).

As a result of the investigation, LAPD detectives developed further information which led to the possible identification of TAPIA as the suspect from the vehicle on December 20, 2006, who had attempted to fire his handgun at the two males who were arrested, as described above in paragraphs 4(a) to 4(c).

e. On December 26, 2006, Detective Pere learned that victim Charupa Wongwisetiri was pronounced dead at 12:16 p.m. by Doctor Berry Markovitz at Children's Hospital.

f. On December 27, 2006, LAPD Officer Noel Magpok conducted a surveillance of TAPIA's residence, located at 4124 Eagle Rock Boulevard, in the City and County of Los Angeles, in the Central District of California (the "residence"). At approximately 2:30 p.m., law enforcement observed TAPIA entering a 2001 Volkswagen Jetta, silver, 4-door vehicle bearing California License plate number 5EFZ415 (the "Volkswagen") and drive away from the residence. LAPD Officers Joel Miller and Thomas Andreas observed the Volkswagen driving northbound on the Glendale freeway. Officers Miller and Andreas followed the Volkswagen and paced the vehicle at 80 miles per hour in a 65 mile per hour zone, in violation of California Vehicle Code Section 22349(a). Officers Miller and Andreas conducted a traffic stop of the Volkswagen. Officers Miller and Andreas made contact with the driver of the Volkswagen, TAPIA, and discovered that TAPIA had an outstanding felony warrant for

criminal threats, a violation of California Penal Code Section 422. TAPIA was arrested for outstanding felony warrant number XCNBA25921801 and transported to Rampart Detectives for further investigation.

g. Detective Pere and LAPD Rampart Homicide Detective Ysaias Valdez attempted to interview TAPIA regarding the December 20, 2006, shooting of Charupa Wongwisetiri. TAPIA invoked his Miranda rights and made no incriminating statements. Detective Pere determined that TAPIA is a documented "Angelino Heights" gang member and is known by the moniker of "Diablo."

h. On December 27, 2006, Los Angeles Superior Court Judge Newman signed a search warrant authorizing LAPD to search the residence in order to search for any firearms and evidence related to the shooting investigation that occurred on December 20, 2006 at 830 East Kensington Road.

i. On December 27, 2006, LAPD Detectives responded to the residence to serve the search warrant. In serving the search warrant, Detective Pere determined through investigation that one of the bedrooms at the residence belonged to TAPIA. In TAPIA's bedroom Detective Pere recovered the following items: a Rossi .357 revolver pistol, bearing serial number ZA366302, various types of live ammunition to include fifty rounds of American Eagle 9mm, twenty rounds of Remington .32 caliber, seven rounds of Luger 9mm, four rounds of FC 9mm, one round of RP .380, one

round of Winchester 9mm, four rounds of Winchester .38, one round of WCC 8.3mm, four rounds of Remington 12 gauge shotgun, four rounds of Federal 12 gauge shotgun, six rounds of FC 9mm, and two rounds of Remington 12 gauge shotgun.

5. On January 24, 2007, I reviewed TAPIA's Los Angeles County Consolidated Criminal History System rap sheet, and learned the following:

a. On or about July 27, 2004, TAPIA was convicted of Terrorist Threats, in violation of California Penal Code Section 422, a felony, in California Superior Court, County of Los Angeles, in case number BA25921801, in which TAPIA received a sentence of three years formal probation, and 292 days of imprisonment.

b. On or about July 27, 2004, TAPIA was convicted of Cruelty to Child, in violation of California Penal Code Section 273A(a), a felony, in California Superior Court, County of Los Angeles, in case number BA25921801, in which TAPIA received a sentence of three years formal probation, and 292 days of imprisonment.

c. TAPIA has had two bench warrants issued for him.

6. On January 26, 2007, I spoke with Immigration and Customs Enforcement ("ICE") Deportation Officer ("DO") Frank Carderella. From my conversation with DO Carderella in relation to TAPIA, I learned the following:

a. A Department of Homeland Security ("DHS"), Citizenship and Immigration Services ("CIS") A-File is a file maintained by the CIS in which all Immigration records are maintained for an alien admitted to or found in the United States. A CIS A-file usually contains photographs, fingerprints, court records of conviction, and all records relating to deportation or other actions by the CIS and/or ICE with respect to the subject alien for which the CIS A-file is maintained.

b. On January 25, 2007, DO Frank Carderella reviewed two of ICE's computer systems, that is, the Deportable Alien Control System ("DACS") and the Central Index System for Alien File number A77 166 467, which is maintained for TAPIA, under the name of Luis Alberto Tapia Vasquez. In reviewing the immigration indices, DO Carderella observed that TAPIA is a citizen of Mexico, who was born on or about November 20, 1979, in Mexico. DO Carderella also found that TAPIA has never held the status of Lawful Permanent Resident in the United States. According to the immigration indices, TAPIA was deported from the United States to Mexico on or about December 1, 2004, October 27, 2003, and May 23, 2002. DO Carderella also found no record in the immigration indices to indicate that TAPIA was granted any permission to reenter the United States.

c. Based on DO Carderella's training, experience, and review of immigration records concerning TAPIA, DO Carderella

determined that TAPIA is a citizen of Mexico, who has no legal status to currently be in the United States, and therefore was illegally and unlawfully in the Central District of California on December 27, 2006.

7. Based upon the aforementioned facts and my training and experience, I believe there is probable cause to believe that on December 27, 2006, LUIS TAPIA violated Title 8, United States Code, Sections 1326(a) and 1326(b)(1), illegal alien found in the United States following deportation.

  
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Mario Rojas  
Task Force Officer  
Bureau of Alcohol, Tobacco,  
Firearms and Explosives

Subscribed and sworn to before me  
on this 26<sup>th</sup> day of January, 2007.

  
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UNITED STATES MAGISTRATE JUDGE